

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

FILED

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WESTERN DISTRICT OF TEXAS
U.S. CLERK'S OFFICE

BY: *PR*
DEPUTY

NORMA M. ROBLES, §
Plaintiff, §
§
v. §
§
UVALDE COUNTY HOSPITAL §
AUTHORITY d/b/a UVALDE §
MEMORIAL HOSPITAL, §
Defendant. §
§

Civil Action No.
DR-05-CV-113-VRG-AML

ORDER

On September 19, 2006, Defendant filed a motion for summary judgment (Docket Entry No. 14). In response to Defendant's motion, Plaintiff filed an unopposed motion to continue the due date of her response until three weeks after the depositions of two key witnesses, the dates for which had not been set at the time Plaintiff sought the continuance (Docket Entry No. 15). Plaintiff's motion was granted, and Plaintiff was ordered to: 1) file her response within three weeks from the date the depositions were taken; and 2) to keep the Court apprised of the dates for these depositions so that the expected due date of the response could be noted (Docket Entry No. 16). The requested depositions were taken on November 7, 2006, making Plaintiff's response due no later than November 28, 2006. However, in her advisory to the Court filed on November 20, 2006, Plaintiff requested "that the Court calendar the date Plaintiff must respond to Defendant's Motion for Summary Judgment" (Docket Entry No. 20). Because the due date for Plaintiff's response had already been calendared for three weeks from the date the depositions were taken, no action was taken upon Plaintiff's request. Plaintiff did not file a timely response.

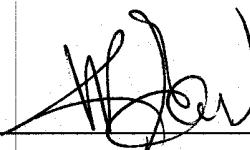
On December 18, 2006, without the benefit of a response from Plaintiff, the undersigned issued a report to the Court recommending that Defendant's motion for summary judgment be granted (Docket Entry No. 20). Within days of the issuance of the recommendation, Plaintiff filed a motion for reconsideration and a motion for leave to file an out of time response, contending that a response was not filed because she misinterpreted the order setting the due date for the response for three weeks from the date the depositions were taken (Docket Entry Nos. 24 and 27). Both motions were denied (Docket Entry No. 29, amended to correct a citation error by Docket Entry No. 31).

After reconsidering Plaintiff's motions for reconsideration and leave to file an out of time response, the undersigned finds that such relief is warranted. Accordingly, it is hereby **ORDERED** that:

1. the undersigned's Report and Recommendation issued on December 18, 2006 (Docket Entry No. 20) is **WITHDRAWN**;
2. the order entered on January 11, 2007, denying Plaintiff's Motion to Reconsider and Motion for Leave to File Plaintiff's Response to Defendant's Motion for Summary Judgment Out of Time (Docket Entry No. 31) is **VACATED**;
3. Plaintiff's Motion to Reconsider (Docket Entry No. 24) and Motion for Leave to File Plaintiff's Response to Defendant's Motion for Summary Judgment Out of Time (Docket Entry No. 27) are **GRANTED**;
4. Plaintiff's Response to Defendant's Motion for Summary Judgment is deemed filed today, March 22, 2007, and Defendant's reply to Plaintiff's response shall be filed no later than April 9, 2007.

The undersigned will consider Plaintiff's summary judgment response, as well as any reply thereto filed by Defendant, and issue a new Report and Recommendation to the Court.

SIGNED this 22 day of March, 2007.



**VICTOR ROBERTO GARCIA
UNITED STATES MAGISTRATE JUDGE**